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upon an estate in remainder, filed a bill in equity seeking to compel the remaindermen to pay such legacies before the death of the life tenant, and the remaindermen were executors of the estate, a mere allegation that the executors had not been required to give bond and that complainants feared their rights might be impaired would not justify the court in exerting its powers to preserve the estate.

[Ed. Note.—For other cases, see Executors and Administrators, Dec. Dig. § 26.* 5 Va.-W. Va. Enc. Dig. 624.]

Appeal from Circuit Court, Rockingham County.

Action by Henry A. Armentrout and others against Johnston P. Armentrout and another, as executors of the will of Augustine Armentrout, and others. From a decree for defendants, complainants appeal. Affirmed.

See, also, 111 Va. 348, 69 S. E. 333.

John E. Roller, for appellants.

Charles D. Harrison, for appellees.

LONG v. FLORY & GARBER.

Nov. 16, 1911.

[72 S. E. 723.]

1. Brokers (§ 49*)—Compensation—Sufficiency of Services.—An agent for the sale of real estate at a fixed price can recover no commission where he has neither made an actual sale at the specified price nor procured a customer, ready and able to purchase at the sum named, unless it appear that the principal has wrongfully prevented a sale or has waived strict performance.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. §§ 70-72; Dec. Dig. § 49.* 2 Va.-W. Va. Enc. Dig. 638.]

2. Brokers (§ 49*)—Compensation—Wrongful Interference of Principal.—Where an owner employs a broker for the sale of property at a stipulated price, but gives no exclusive right of sale, a later sale by the principal to a person in no way procured by the broker, without knowledge or belief that the purchaser was acting for a person whom the broker had interested in the purchase, is not such a wrongful interference with the broker as will entitle him to recover the agreed commission.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. §§ 70-72; Dec. Dig. § 49.* 2 Va.-W. Va. Enc. Dig. 640.]

Error to Circuit Court, Rockingham County.

Action by Flory & Garber against William C. Long. From a judgment for plaintiffs, defendant brings error. Reversed.

Sipe & Harris, for plaintiff in error.

Ira S. Flory and Ed. C. Martz, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.